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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,414	07/20/2001	Eric P Berg	NIGA,003	9647
<div>7590 Mark R Wisner WISNER &amp; ASSOCIATES Suite 400 1177 West Loop South Houston, TX 77027-9012</div>			<div>EXAMINER BANGACHON, WILLIAM L</div>	
			<div>ART UNIT 2612</div>	<div>PAPER NUMBER</div>
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	01/16/2007	PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/910,414

Applicant(s)

BERG, ERIC P

Examiner

William L. Bangachon

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: Examiner's comments.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/24/2006 has been entered.

### *Drawings*

2. The drawings were received on 11/24/2006. These drawings are acceptable.

### *Response to Arguments*

3. Applicant's arguments with respect to claims 1 and 3-6 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that Warwick does not teach **"a processor for processing the control signals from said radio frequency receiver to open said switching circuit to interrupt electrical power transmisson between the input electrical supply source and the output electrical circuit"** [page 5, lines 25-27], applicant is directed to column 6, lines 26-47+, wherein Warwick teaches of **"switching a meter in dependence upon received radio signals via the micro processor 83**

Art Unit: 2612

which appropriately operates a solenoid driver 99 which feeds a solenoid 100. Operation of the solenoid causes a switch 101 (i.e. switching circuit) to operate (i.e. interrupt) so as to connect or disconnect as the case may be, power to a conductor 106".

### ***Double Patenting***

4. Application No. 09/672,162 has been abandoned and therefore the provisional rejection of claims 1, 3 and 5 on the ground of nonstatutory obviousness-type double patenting is withdrawn.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2612

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,668,538 {hereinafter 'Warwick'}.

In claim 1, Warwick teach of a system for remote disconnection and connection for electrical power meters shown in figures 1a-n to 5a-n, having an input electrical supply source (22, 23) and an output electrical outlet (24, 25) {paragraph bridging cols. 1 and 2; col. 4, lines 15-19}, said system comprising;

a switching circuit (26, 101) connected between said input electrical supply source and said output electrical outlet shown in Figures 1F and 5G and described in col. 4, lines 15-19;

a radio frequency receiver module (82) for receiving wireless radio frequency control signals from a remote source {col. 6, lines 26-33+}; and

a micro processor (63, 83) for processing the control signals from a telephone line (62) or radio receiver module (82) to open said switching circuit (26, 101) to interrupt electrical power transmission between said input electrical supply source and said output electrical outlet {col. 5, lines 49-55+; col. 6, lines 26-45+}.

In claim 3, said system further including a processor (83) for decoding the signal received from said radio frequency receiver for said processor {col. 6, lines 26+}.

In claim 4, said switching circuit (26), said processor (63, 83) and said receiver are integrally mounted within the electrical power meter as shown in the figures.

Claim 5 recites a method for practicing the system of claims 1-3 and therefore rejected for the same reasons.

9. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,668,538 {Warwick} in view of USP 6,374,101 {hereinafter 'Gelbien'}.

With regards to claim 6, Warwick does not disclose **“a radio frequency receiver for receiving wireless radio frequency control signals from a remote source”**. However, Gelbien, in the same field of endeavor (remote control systems), teach of a pager-based remote control of a power relay {Gelbien, col. 3, lines 11-20+}. Gelbien suggests that the use of pocket pagers is advantageous because it requires minimal set-up and maintenance costs and provides a reliable method of controlling the capacitor bank via the use of pager network {Gelbien, col. 2, lines 31-36+}. It would have been obvious to one of ordinary skill in the art, at the time of applicant's invention, to include the use of pagers in the system of Warwick because, as taught by Gelbien, it requires minimal set-up and maintenance costs and provides a reliable method of controlling the capacitor bank via the use of pager network.

***Office Contact Information***

Art Unit: 2612

10. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to William Bangachon whose telephone number is **(571)-272-3065**. The Examiner can normally be reached on Monday – Thursday, 8:30 AM – 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wendy Garber can be reached on **(571)-272-7308**. The fax phone numbers for the organization where this application or proceeding is assigned is **571-273-8300** for regular and After Final formal communications. The Examiner's fax number is **(571)-273-3065** for informal communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.


Application/Control Number: 09/910,414  
Art Unit: 2612

Page 7



William L Bangachon  
Examiner  
Art Unit 2635

December 8, 2006



WENDY R. GABER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600



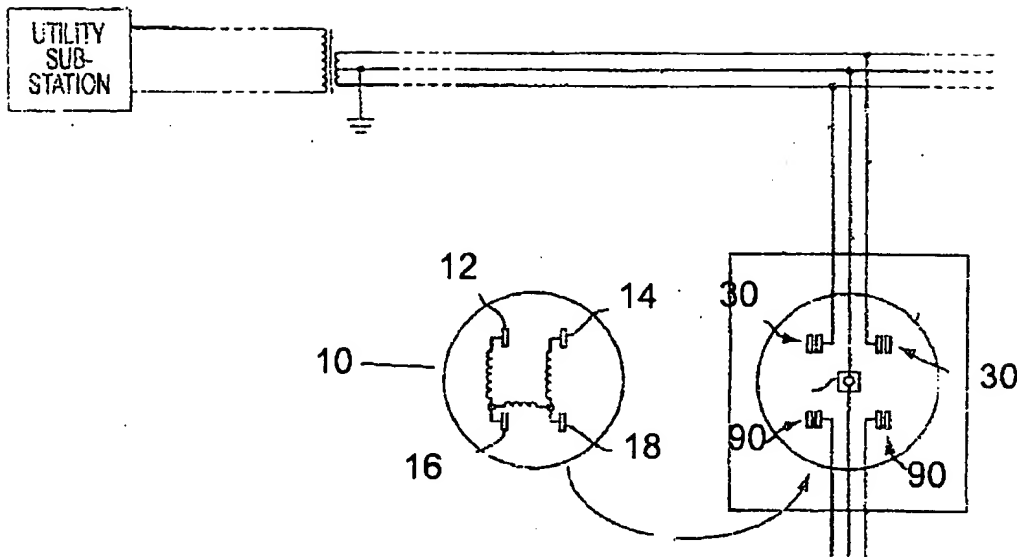
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12/8/2006 *[Signature]*



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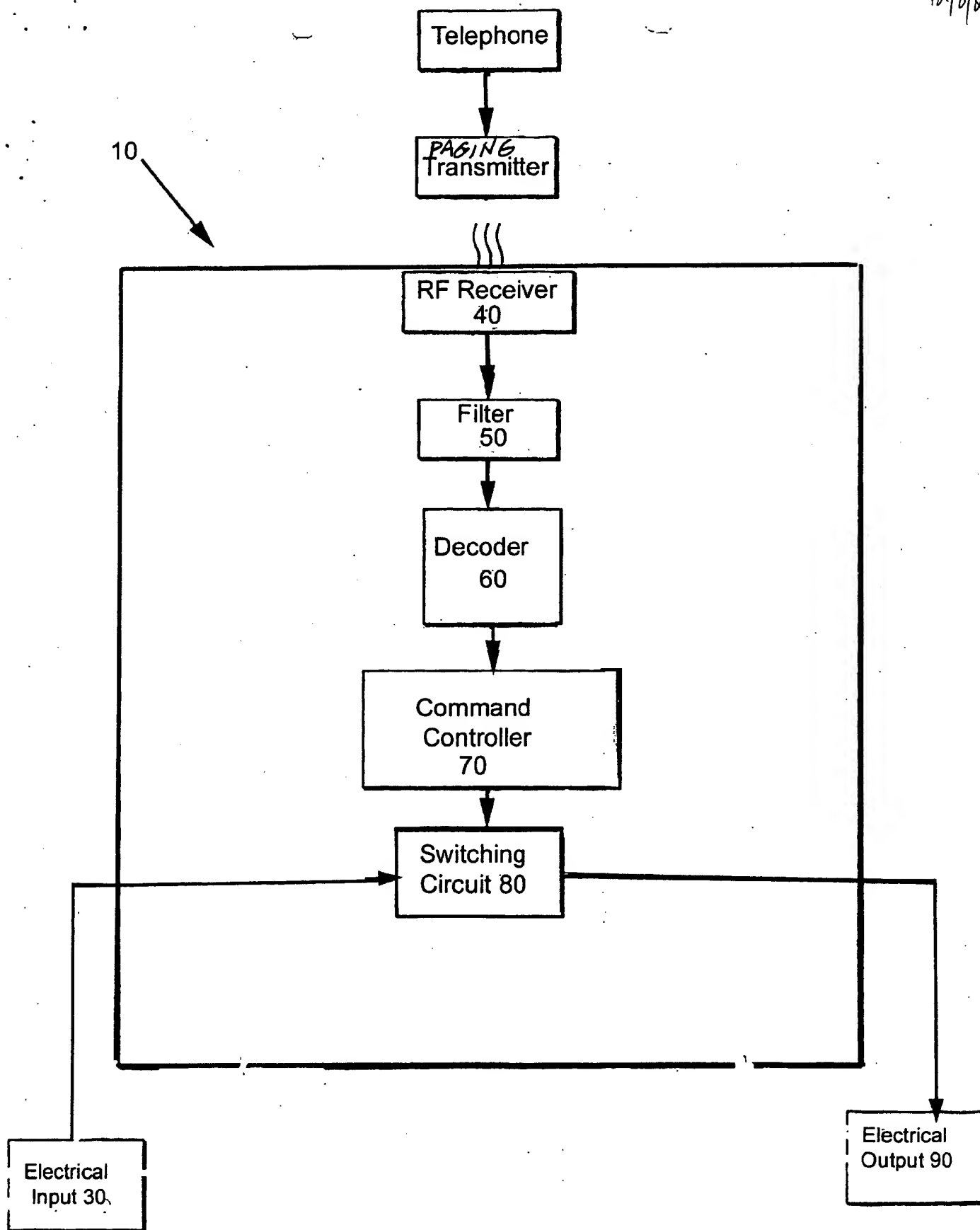
**Figure 1**

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**Figure 2**  
**(Prior Art)**

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**Figure 4**